

October 27, 1998

MEMORANDUM

SUBJECT: Alternative Dispute Resolution

TO: Assistant Administrators
General Counsel
Inspector General
Chief Financial Officer
Associate Administrators
Regional Administrators

This Administration has given the highest priority to improving access to the civil justice system for all Americans. The use of alternative means of dispute resolution (ADR) has been identified by the President and the Congress as an effective tool for achieving this objective while lowering the tremendous costs and easing the delays of government litigation. Today we are pleased to announce the next steps in our efforts to provide leadership in meeting the President's objectives in this area.

The President has charged the Attorney General with responsibility to lead an inter-agency working group to facilitate and encourage agency use of ADR in all appropriate contexts. We ask each of you to join us in supporting the Attorney General's effort to have every agency develop at least one new ADR program over the next year. EPA's experience with the use of alternative dispute resolution techniques will contribute to government-wide discussions on this important topic. In recognition of the important role ADR is already playing in the work of this Agency, the Attorney General has asked EPA to chair the civil litigation section of the working group.

In addition to using ADR to resolve existing disputes, the President has specifically charged all agencies with considering how ADR might help the government prevent future disputes. Our successful use of negotiated rulemaking is one application of ADR techniques that proves that future challenges may be avoided or minimized by using consensual processes at the earliest stages of regulation. We ask each of you to consider how other ADR processes might assist your program in anticipating and avoiding future disputes, including collaborative processes with local communities aimed at identifying shared environmental protection objectives at the earliest stages of Agency action.

Innovation aimed at maximizing resources for environmental protection is at the heart of all our reinvention activities. An Agency-wide effort to avoid costly and time-consuming disputes will contribute significantly to this goal. Our objective is to provide the information, training, and tools to empower Agency personnel to make informed use of ADR in their efforts to protect public health and the environment.

To assist us in this next phase of ADR work in the Agency, we are asking Bob Ward to

serve as the Agency's Senior Counsel for Alternative Dispute Resolution. In this capacity, Bob will oversee implementation of the Administrative Dispute Resolution Act of 1996 as the Agency's designated Dispute Resolution Specialist. In response to the President's memorandum of May 1, 1998 and the request of the Attorney General, Bob will chair the civil litigation section of the Interagency ADR Working Group, working closely with ADR Liaison David Batson (OECA) and other relevant Agency personnel to ensure that EPA provides the greatest possible assistance to this inter-agency effort. Bob has worked on ADR policy in the U.S. and abroad, including assistance to the Indonesian environment ministry on the institutionalization of ADR use in that country. Bob's experience in environmental litigation and international negotiation will provide valuable perspective and skills as we join with other agencies in a government-wide effort to promote the use of ADR. Bob will work closely with the many talented ADR professionals throughout the Agency to integrate fully ADR practice into the work of the Agency and report directly to the Acting Deputy Administrator on progress in this endeavor.

The President has challenged us to use ADR as a tool to make the federal government operate in a more efficient and effective manner. We ask all of you to join this effort by making the avoidance and early resolution of disputes a priority throughout the Agency.

/s/

Carol M. Browner
Administrator

/s/

Peter D. Robertson
Acting Deputy Administrator